



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 02-2302  
Released: September 18, 2002

## **Valor Telecommunications Files Petition for Waiver of the Commission's "All-or-Nothing" Rule (Sections 61.41(b) and 61.41(c)(2))**

### **Pleading Cycle Established**

WCB/Pricing 02-26

**COMMENTS:** October 10, 2002

**REPLY COMMENTS:** October 21, 2002

### **I. PETITION FOR WAIVER**

In this public notice, we seek comment on a petition filed by Valor Telecommunications, LLC (Valor) on September 10, 2002.<sup>1</sup> Valor requests that the Commission waive its "all-or-nothing" rule set forth in sections 61.41(b) and 61.41(c)(2) of the Commission's rules,<sup>2</sup> to allow Valor's wholly-owned subsidiary Kerrville Telephone Company (Kerrville) to continue to be regulated as a rate-of-return incumbent local exchange carrier.

Valor has approximately 565,000 access lines and primarily serves rural communities in New Mexico, Oklahoma, Texas, and Arkansas. It is subject to price cap regulation. Kerrville, a rate-of-return carrier, provides incumbent local exchange services to residential and business customers in Texas. On December 18, 2001, the Commission approved an application to transfer control of Kerrville to Valor, and the transfer closed on January 31, 2002.<sup>3</sup> Under section 61.41(c)(2) of the Commission's rules, any carrier that is acquired by a price cap carrier

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<sup>1</sup> Valor Telecommunications, LLC Petition for Waiver of Section 61.41 of the Commission's Rules (Sept. 10, 2002).

<sup>2</sup> 47 C.F.R. §§ 61.41(b) and 61.41(c)(2). The "all-or-nothing" rule mandates that, when a price cap carrier acquires, is acquired by, merges with, or otherwise becomes affiliated with, a non-price cap carrier, the non-price cap carrier shall become subject to price cap regulation.

<sup>3</sup> Common Carrier Bureau and Wireless Telecommunications Bureau Grant Consent for Transfer of Control of Licenses and Authorizations of Kerrville Communications Corporation, Inc. to Valor Telecommunications Enterprises II, LLC, Public Notice, 16 FCC Rcd 22434 (2001).

becomes subject to price cap regulation no later than one year after the effective date of the acquisition, and must file price cap tariffs to be effective by the same date.<sup>4</sup> Valor requests a grant of its petition in advance of January 31, 2003, when Kerrville otherwise becomes subject to price cap regulation.

Valor maintains that its petition for waiver of sections 61.41(b) and 61.41(c)(2) would serve the public interest and is consistent with prior Commission decisions where the Commission has granted similar waiver requests. It argues that there is no reasonable basis for concern that Valor would be able to successfully engage in the kind of cost shifting that the “all-or-nothing” rule was created to prevent. Valor also argues that waiver is appropriate pending the Commission’s review of the “all-or-nothing” rule in its *Rate-of-Return Access Charge Reform Further Notice of Proposed Rulemaking*.<sup>5</sup>

## II. PROCEDURAL MATTERS

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules.<sup>6</sup> Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.<sup>7</sup> Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>8</sup>

Interested parties may file comments no later than October 10, 2002. Reply comments may be filed no later than October 21, 2002. When filing comments, please reference the internal file number: WCB/Pricing 02-26.

An original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies with the Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Washington, D.C. 20554, Attn: Paul Moon. Parties shall also serve with one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554. Qualex may be reached by phone at (202) 863-2893.

Interested parties who wish to file comments via hand delivery are also notified that the Commission will only receive such deliveries on weekdays from 8:00 a.m. to 7:00 p.m. at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. **The Commission no**

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<sup>4</sup> 47 C.F.R. § 61.42(c)(2).

<sup>5</sup> *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19613 (2001).

<sup>6</sup> See 47 C.F.R. §§ 1.1200, 1.1206.

<sup>7</sup> See 47 C.F.R. § 1.1206(b).

<sup>8</sup> 47 C.F.R. § 1.1206(b).

**longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743.**

Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition, this is a reminder that the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (e.g., via Federal Express), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554.

The following chart summarizes this information:

<b>TYPE OF DELIVERY</b>	<b>PROPER DELIVERY ADDRESS</b>
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (e.g., Federal Express) including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12 <sup>th</sup> Street, SW Washington, DC 20554

For further information, contact Paul Moon of the Pricing Policy Division, Wireline Competition Bureau, at (202) 418-1520, or via e-mail at <[pmoon@fcc.gov](mailto:pmoon@fcc.gov)>.